

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

LAZARUS ENERGY HOLDINGS, LLC	)	
	)	
Employer,	)	
	)	
and	)	Case No. 16-RC-266439
	)	
UNITED STEEL, PAPER AND	)	
FORESTRY, RUBBER,	)	
MANUFACTURING, ENERGY,	)	
ALLIED-INDUSTRY AND SERVICE	)	
WORKERS INTERNATIONAL UNION	)	
AFL-CIO	)	
	)	
Petitioner.	)	
_____	)	

**EMPLOYER’S MOTION TO REOPEN THE RECORD, FOR RECONSIDERATION OF  
THE DECISION AND DIRECTION FOR ELECTION,  
AND MOTION TO DISMISS PETITION**

Lazarus Energy Holdings, LLC (“Employer” or “Company” or “LEH”), by its attorneys, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and pursuant to Section 102.65(e) of the National Labor Relations Board’s Rules & Regulations, presents the instant Motion to Reopen the Record, for Reconsideration of the Decision and Direction for Election, and Motion to Dismiss Petition. In support thereof, the Employer states as follows:

1. On September 22, 2020, United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO (“Petitioner”) filed the instant petition. A pre-election Hearing was held on October 13, 2020.
2. The matter relied upon to support the instant Motion pertains to the Employer’s San Antonio operations, and cessation of the same.

3. The Employer seeks to introduce the additional evidence of a Declaration from Jonathan Carroll (“Carroll”), the Employer’s President of Operations. Carroll’s Declaration attests to the fact that:

- A. Employees in the petitioned-for unit perform work on behalf of the Company pursuant to a certain operations and maintenance contract (the “O&M Contract”). The Company was hired by The San Antonio Refinery (“TSAR”) and Falls City Terminal, LP (“FCLP”) under the O&M Contract to operate facilities at (i) 7811 South Presa Street, San Antonio, Texas; (ii) 1 BDA Crossing, San Antonio, Texas; (iii) 20830 Lamm Road, Elmendorf, Texas; and (iv) 5999 County Road 211, Falls City, Texas (the “Facilities”). TSAR and FCLP own the Facilities which the Company operates in San Antonio pursuant to the O&M Contract.
- B. Carroll received an email communication from a representative of TSAR on October 29, 2020, informing TSAR’s vendors that it had terminated the O&M Contract and announcing that cessation of LEH’s operations at TSAR’s facilities is imminent. Termination of the O&M Contract will result in the imminent cessation of LEH’s operations at all of the Facilities.

Carroll’s Declaration is attached hereto as Exhibit A.

4. This evidence was not introduced earlier because the Employer first learned of this new evidence on October 29, 2020, approximately 16 days after the October 13, 2020, Hearing.

5. This new evidence changes the analysis vis-à-vis the petitioned-for unit because it demonstrates that cessation of the Employer’s operations in the San Antonio area, where the employees in the petitioned-for unit report, is imminent.

6. In addition to the arguments raised in the Employer's Memorandum in Support of this Motion filed simultaneously herewith, the new evidence upon which the instant Motion is based further demonstrates that the petition should be dismissed.

WHEREFORE, Lazarus Energy Holdings, LLC respectfully requests that its instant Motion to Reopen the Record be granted because the Employer learned of the new evidence (explained at Paragraphs 1-2 above) on October 29, 2020, and because the new evidence further demonstrates that the petition should be dismissed.

Respectfully Submitted,

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

By: /s/ Bindu R. Gross

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\* Currently licensed in Pennsylvania and West Virginia only; practice limited exclusively to federal labor and workplace safety law.